

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BEHZADI & BRENJIAN CARPET
Plaintiff,

**AFFIDAVIT OF DEFENDANT,
DAVID SHADAN**

-against-

Docket No. 07-CV-7073

Judge/Magistrate Judge: Barbara S. Jones/Douglas F. Eaton

Date: January 25, 2008

DAVID & SON ORIENTAL ANTIQUE
RUGS CORPORATION and
DAVID SHADAN

Defendant(s).

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David Shadan being duly sworn deposes and says:

1. I am the named individual defendant in this action and president of the corporate defendant, David & Son Oriental Antique Rugs Corporation ("David & Son"), and as such I am fully familiar with the facts and circumstances set forth herein.

2. I make this affidavit in support of my motion for an order pursuant to Rule 56(b) of the Federal Rules of Civil Procedure for summary judgment dismissing the Fourth Claim for Relief in plaintiff's amended complaint, which seeks to recover from me individually on the ground that I am the alter ego of the corporate defendant, David & Son.

3. My attorney has informed me that a legitimate purpose of incorporating a business is to enable its proprietor to avoid personal liability. He also informed me that the corporate form is not to be lightly disregarded.

4. At the time of the transactions alleged in the amended complaint, David & Son, was a legitimate business entity and there is no basis for the plaintiff to hold me personally liable for the alleged wrongdoing of the corporation.

5. David & Son was duly incorporated under the laws of the State of New York. Attached hereto as Exhibit "C" is a copy of the New York State, Department of State, Division of

Corporations, Entity Information indicating David & Son was an active domestic corporation as of June 5, 2001.

6. David & Son had its own Employer's Identification Number, which is 13-4176341.

7. David & Son had its own telephone number which was (800) 283-3880.

8. David & Son maintained its own bank account at Commercial Bank of New York in Manhattan, New York.

9. Accordingly, David & Son was a legitimate business involved in importing and selling carpets.

10. The legitimacy of David & Son's business is confirmed by plaintiff's amended complaint. The amended complaint alleges plaintiff and David & Son entered into a certain agreements for the sale of certain carpets, plaintiff delivered carpets to David & Son, and David & Son partially paid for carpets. See Exhibit "A".

11. Attached to the amended complaint are 155 pages of documents allegedly pertaining to the transactions between plaintiff and David & Son. Not one of those documents indicate that I was personally involved in those transactions. My name is not mentioned in any of those documents. And, my signature does not appear on any of those documents. See Exhibit "A".

12. Accordingly, it is clear David & Son was a duly organized corporation engaged in the business of importing and selling carpets and there is no basis for the plaintiff to hold me personally liable for the alleged wrongdoing of the corporate defendant, David & Son.

WHEREFORE, it is respectfully requested that the Court issue an Order pursuant to Federal Rule of Civil Procedure 56(b) granting summary judgment dismissing the Fourth Claim for Relief of plaintiff's amended complaint and for such other and further relief as the Court deems adequate.



DAVID SHADAN

Sworn to before me this
25th day of January, 2008



JESSICA LANG
Notary Public, State of New York
No. 01LA6151998
Qualified in Suffolk County
Commission Expires August 28, 2010